

§ 585.403

Nov. 2, 1998. For the convenience of the user, the superseded text is set forth as follows:

§ 585.402 Filing of petitions.

All requests for relief from conditions unfavorable to shipping in the foreign trade shall be by written petition. An original and fifteen copies of a petition for relief under the provisions of this part shall be filed with the Secretary, Federal Maritime Commission, Washington, DC 20573.

§ 585.403 Contents of petitions.

Petitions for relief from conditions unfavorable to shipping in the foreign trade of the United States shall set forth the following:

(a) A concise description and citation of the foreign law, rule, regulation, practice or competitive method complained of;

(b) A certified copy of any law, rule, regulation or other document involved and, if not in English, a certified English translation thereof;

(c) Any other evidence of the existence of such practice or competitive method;

(d) A clear description, in detail, of the harm already caused or which may reasonably be expected to be caused petitioner, including:

(1) Statistics for the representative period showing the type and amount of revenue loss or operating cost increase suffered or projected, such as a present or prospective cargo loss if harm is alleged on that basis. Such statistics shall include figures which permit comparison or computation of the proportional effect of the harm alleged. For example, when the harm alleged is loss of cargo, supporting evidence shall include the total cargo carried or projected in the trade for the period;

(2) Statistics or other evidence for the representative period showing increased costs, inferior services or other harm to cargo or other non-vessel interest if injury is claimed on that basis; and

(3) A statement as to why the period is representative.

(e) A recommended regulation, the promulgation of which will, in the view of the petitioner, adjust or meet the alleged conditions unfavorable to shipping in the foreign trade of the United States.

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§ 585.404 Amendment or dismissal of petitions.

Upon the failure of a petitioner to comply with the provisions of this part, the petitioner will be notified by the Secretary and afforded reasonable opportunity to amend its petition. Failure to timely amend the petition may result in its dismissal. For good cause shown additional time for amendment may be granted.

Subpart E—Proceedings

§ 585.501 Participation of interested persons.

In the event that participation of interested persons is deemed necessary by the Commission, notice will be published in the FEDERAL REGISTER and interested persons will then be allowed to participate in this proceeding by the submission of written data, views or arguments, with or without opportunity to present same orally.

§ 585.502 Discovery.

The Commission may authorize a party to a proceeding to use depositions, written interrogatories, and discovery procedures that, to the extent practicable, are in conformity with the rules applicable in civil proceedings in the district courts of the United States.

§ 585.503 Subpoenas.

In proceedings under this part, the Commission may by subpoena compel the attendance of witnesses and the production of books, papers, documents, and other evidence.

§ 585.504 Witness fees.

In proceedings under this subpart, witnesses are, unless otherwise prohibited by law, entitled to the same fees and mileage as in the courts of the United States, subject to funds being provided by appropriations Acts.

§ 585.505 Failure to supply information.

For failure to supply information ordered to be produced or compelled by subpoena in proceedings under this part, the Commission may—

(a) After notice and an opportunity for hearing, suspend tariffs of a common carrier or that common carrier's right to use the tariffs of conferences of which it is a member; or

(b) Assess a civil penalty of not more than \$5,000 for each day that the information is not provided.

§ 585.506 Enforcement of orders.

In proceedings under this part, when a person violates an order of the Commission or fails to comply with a subpoena, the Commission may seek enforcement by a United States district court having jurisdiction over the parties.

§ 585.507 Postponement, discontinuance, or suspension of action.

The Commission may, on its own motion or upon petition, postpone, discontinue, or suspend any and all actions taken by it under the provisions of this part. The Commission shall postpone, discontinue or suspend any or all such actions if the President informs the Commission that postponement, discontinuance or suspension is required for reasons of foreign policy or national security.

§ 585.508 Publication, content, and effective date of regulation.

The Commission shall incorporate in any regulations adopted under the rules of this part a concise statement of their basis and purpose. Regulations shall be published in the FEDERAL REGISTER. Except where conditions warrant and for good cause, regulations promulgated under the rules of this part shall not become effective until at least 30 days after the date of publication.

Subpart F—Corrective Actions

§ 585.601 Actions to correct unfavorable conditions.

Upon submission of a petition filed under the rules of this part, or upon its own motion, the Commission may find that conditions unfavorable to shipping in the foreign trade of the United States do exist, and may, without further proceedings, issue regulations which may:

(a) Impose equalizing fees or charges;

(b) Limit sailings to and from United States ports or the amount or type of cargo carried;

(c) Suspend, in whole or in part, tariffs filed with the Commission for carriage to or from United States ports, including a common carrier's right to use tariffs of conferences in United States trades of which it is a member for any period the Commission specifies;

(d) Suspend, in whole or in part, an ocean common carrier's right to operate under an agreement, including any agreement authorizing preferential treatment at terminals or preferential terminal leases, whether filed with the Commission or not filed with the Commission pursuant to the exemptions granted in 46 CFR Part 572; or any agreement filed with the Commission authorizing space chartering, or pooling of cargo or revenues with other ocean common carriers;

(e) Impose a fee, not to exceed \$1,000,000 per voyage;

(f) Request the collector of customs at the port or place of destination in the United States to refuse the clearance required by section 4197 of the Revised Statutes, 46 U.S.C. app. 91, to a vessel of a foreign carrier which is or whose government is identified as contributing to the unfavorable conditions described in subpart C;

(g) Request the collector of customs at the port or place of destination in the United States to collect any fees imposed by the Commission under paragraph (e) of this section;

(h) Request the Secretary of the department in which the Coast Guard is operating to deny entry, for purposes of oceanborne trade, of any vessel of a foreign carrier which is or whose government is identified as contributing to the unfavorable conditions described in subpart C, to any port or place in the United States or the navigable waters of the United States, or to detain any such vessel at the port or place in the United States from which it is about to depart for any other port or place in the United States; or

(i) Take any other action the Commission finds necessary and appropriate to adjust or meet any condition unfavorable to shipping in the foreign trade of the United States.